

Exhibit 1(a)

Robert Lewis Pifer

April 8, 2015

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**IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
AT PARKERSBURG**

JAMES P. WEIGLE,

Plaintiff,

vs.

Civil Action No. 2:14-cv-15087

**R.L. PIFER, individually and in his
capacity as an officer with the
City of Vienna Police Department,
BRIAN INGRAHAM, individually
and in his capacity as an officer with the
City of Vienna Police Department,
CITY OF VIENNA POLICE
DEPARTMENT, a political subdivision
of the State of West Virginia,
and the CITY OF VIENNA,
a political subdivision in the
State of West Virginia,**

Defendants,

VIDEO DEPOSITION OF ROBERT LEWIS PIFER

**APRIL 8, 2015
10:03 A.M.**

**CITY OF VIENNA FIRE DEPARTMENT
609 28TH STREET
VIENNA, WEST VIRGINIA**

**Nancy S. Jarrell
Certified Court Reporter**

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1 Q Who followed him?

2 A George Young.

3 Q Okay. So during your time as a patrolman before
4 Mr. Stevens came in or under Chief Deem did you have any
5 evaluations -- professional evaluations?

6 A I don't believe the Vienna Police Department did
7 any kind of professional written evaluations.

8 Q Okay. Did they do oral or verbal evaluations?

9 A Not on a yearly basis. It was a as-needed kind
10 of procedure I suppose. If there was an issue, the chief
11 would bring you into the office and speak to you then.

12 Q Okay. And by "issue" what do you mean? What
13 kind of issue would that be that would cause him to bring
14 you in?

15 A If there was a complaint against you, if you had
16 violated any policy or procedure -- those kind of issues.

17 Q Okay. Did you ever have one of those meetings
18 with Chief Deem?

19 A Yes.

20 Q One or more than one?

21 A Oh, I had more than one.

22 Q Okay. Now, do you know whether any -- whether
23 there was any notation of those types of meetings, whether
24 there was anything placed in your file, or was it just an

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1 informal sort of sit down?

2 A I believe it was an informal kind of sit down. I
3 don't know that anything was ever written down, and I have
4 never seen my file.

5 Q Okay. Have you ever asked to see your file?

6 A No.

7 Q Okay. Well, tell me -- tell me about the
8 meetings that you had with Chief Deem then to the extent
9 you recall.

10 A One, an angry mother called in because I had
11 taken cigarettes away from her 13-year-old son. She was
12 upset saying that he was supposed to be bringing them to
13 her. When I discovered him, he was giving the cigarettes
14 to a nine year old and making him smoke them -- making him
15 become sick. I took the cigarettes away from him and threw
16 them in the garbage.

17 Q And you said she called in. She just called in
18 to the general department number --

19 A Yes.

20 Q -- to your knowledge? Do you remember what her
21 name was?

22 A No.

23 Q Now, as far as complaints of that nature at that
24 time with the police department, do you know how those were

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1 handled as far as procedure went? Were they written down
2 and taken to someone or put in a particular file or --

3 A I don't know.

4 Q So you don't know whether she ever was asked to
5 come in and make a formal written statement or anything
6 like that?

7 A No, I don't.

8 Q All right. Okay. Well, tell me about the next
9 meeting you had with Chief Deem.

10 A There were meetings when people would make a
11 complaint about a traffic citation or a vehicle stop that
12 had been made -- those kinds of things.

13 Q Okay. To your knowledge did Chief Deem call in
14 any officer when a complaint was made regardless or did he
15 do some investigation and only call the officer in if he
16 thought it was warranted?

17 A To my knowledge Chief Deem would call officers in
18 to get a full story before making a decision.

19 Q Okay. What kind of a decision would he be
20 making?

21 A Whether to take action against that officer,
22 repercussions -- that kind of thing.

23 Q Okay. In any of the times that you were called
24 in with Chief Deem did he take any kind of action against

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1 you after the meeting or at some point in response to the
2 complaint?

3 A No.

4 Q No, absolutely no, or just don't remember?

5 A There was no -- I never was given any kind of
6 administrative punishment.

7 Q Okay. Did he ever give you any warnings just
8 verbally in the office or tell you that you that you should
9 --

10 A Yes.

11 Q -- handle something differently? Do you remember
12 what those were or what the context of those were?

13 A I believe he told me that I needed to be polite
14 and professional on all traffic stops, and not use
15 profanity.

16 Q Okay. So I'm going to assume that one of those
17 complaints was about the use of profanity?

18 A Yes.

19 Q Okay. And is -- were the other complaints of a
20 similar nature? Was it -- did it have to do with your
21 attitude toward a person who was receiving the citation or
22 who had been stopped?

23 A Generally, yes.

24 Q Okay.

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1 walkers happen to converge on that intersection in the same
2 span of time, you could stop traffic indefinitely until
3 that cleared?

4 A If it took indefinitely for the runners and
5 walkers to cross the intersection, I guess, yes.

6 Q Okay. All right. Well, tell me about the --
7 tell me about the horn that you were talking about.

8 A We heard a horn honk. It began to honk
9 repeatedly. We could tell that it was the same horn. It
10 wasn't different car horns. It was the same horn, and I
11 sent Officer Cole back to investigate what was wrong.

12 Q Okay. How could you tell it was the same horn?

13 A Same pitch, same tone -- it didn't appear to
14 change.

15 Q Could you tell at the time you first heard the
16 horn how far away it was?

17 A No. I could tell the general direction, but as
18 for any given distance, no.

19 Q What was the duration of the honk that you heard
20 the first time?

21 A I don't recall the duration.

22 Q Was it just sort of like a brief honk? Was it
23 somebody laying on the horn?

24 A I don't recall.

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1 Q -- of this intersection? When you sent Officer
2 Cole, was the horn continuing to honk --

3 A Yes.

4 Q -- as he's walking?

5 A Yes.

6 Q Did you -- did you watch him walk?

7 A No.

8 Q Okay. So you --

9 A I observed him leave and then my -- I was
10 concerned with the traffic at that point, and the runners
11 and walkers crossing the intersection.

12 Q Okay. Did you check up on him at some point
13 after that or did you maintain focus on the traffic until
14 -- until something else happened?

15 A I maintained focus on the traffic.

16 Q All right. So how long was Officer Cole gone?

17 A He was not gone for very long.

18 Q Five minutes, ten minutes?

19 A No, not that long -- a couple of minutes at the
20 most.

21 Q Okay. And then he came back to the intersection?

22 A Yes.

23 Q What did he do then?

24 A When he returned to the intersection, I asked him

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1 what was going on, and, he said, "I don't know." I said,
2 "What's the problem?" He said, "I don't know." I said,
3 "Who's honking the horn?" He said, "I don't know. He
4 wouldn't tell me."

5 Q Could you still hear the horn --

6 A The horn then honked again.

7 Q -- when you talked to Officer Cole?

8 A Yes.

9 Q Okay. So it was not a continuous -- you said it
10 just then honked again. It's not that it was happening
11 continuously, but --

12 A Yes.

13 Q -- every now and then, here it comes, right?

14 A It became repeated.

15 Q Okay. So what did you do when Officer Cole said,
16 "Beats me, I don't know what's going on"?

17 A I then said, "Okay. You handle the intersection.
18 I'll go find out what's going on." I then went walking
19 north in the southbound lane and as I walked back there
20 were people looking at me. I heard the horn honk again.
21 It brought my attention up to Mr. Weigle's vehicle, and the
22 people were pointing at his vehicle in the other cars.

23 Q What people?

24 A The people who were sitting behind the wheels of

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1 the other cars stopped in traffic.

2 Q Okay. So when you said, "There were people
3 looking at me," you meant the people as you walked past the
4 sitting traffic?

5 A Yes.

6 Q The people in the cars were watching you walk?

7 A Yes.

8 Q How far did you go before you came upon Mr.
9 Weigle's car?

10 A Not very far -- maybe half a block.

11 Q Okay. So it was still in the 34th Street -- it
12 was in that block?

13 A It was right in front of the church there. So,
14 yes, I believe so.

15 Q Okay. Did you know the people in the cars --

16 A No, I didn't.

17 Q -- that you passed? Did you know Mr. Weigle when
18 you saw him?

19 A I did not know Mr. Weigle before that incident.

20 Q Okay. Okay. So you -- you come upon Mr.
21 Weigle's car. Let me ask you this: Did you ever see Mr.
22 Weigle honk the horn?

23 A I don't recall if I saw him honk the horn or not.

24 Q Okay. What was it then that made you approach

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1 Mr. Weigle's car as opposed to someone else's car?

2 A As I walked back I would observe the driver of
3 each vehicle. I observed their posture, body habits, what
4 they were doing with their hands. The -- the people would
5 either, generally, look at me and point in the direction of
6 Mr. Weigle's car with the exception after -- as I walked
7 past.

8 I remember walking past a woman and she pointed
9 back over her shoulder with her thumb and giving kind of a
10 frowned look on her face. As I moved past her, I remember
11 seeing another car. They pointed back. Then there was Mr.
12 Weigle's car, and he had an angry look on his face, and the
13 car behind him, the gentleman behind the wheel pointed at
14 Mr. Weigle's car.

15 A Okay.

16 Q Was the traffic stopped --

17 A Yes.

18 Q -- when you were walking back?

19 A Yes, it was.

20 Q Had the traffic moved between the time Officer
21 Cole walked back and the time that you walked back?

22 A No.

23 Q So they'd been sitting there the whole time that
24 traffic had remained still?

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- 1 A Yes.
- 2 Q Okay. So tell me -- tell me about your approach
- 3 to Mr. Weigle's car. Was his window up, down?
- 4 A His window was up.
- 5 Q Okay. What was the weather like that day?
- 6 A It was raining. We were wearing raingear.
- 7 Q Was it raining hard?
- 8 A At the time it was sprinkling, I believe.
- 9 Q Okay. So his window was up; you approached the
- 10 car?
- 11 A Yes.
- 12 Q What did you do?
- 13 A I knocked on the window with my knuckle.
- 14 Q One knuckle, whole hand?
- 15 A (Witness demonstrates knock.)
- 16 Q Okay.
- 17 A The back of my hand.
- 18 Q And his response was what?
- 19 A He ignored me.
- 20 Q Okay. Did he look at you while he was ignoring
- 21 you or did he just face forward?
- 22 A Just faced forward.
- 23 Q All right. So what did you do then?
- 24 A I knocked again.

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1 Q Did you knock the same way or did you knock
2 differently this --

3 A I knocked the same way.

4 Q All right. And what did he do in response to
5 that knock?

6 A Then he looked at me, and I said, "Sir, I need
7 you to roll down the window."

8 Q Okay. You said that audibly?

9 A Yes, in a loud voice so that he could hear
10 through the closed window.

11 Q Okay. You don't know that he heard you, though?

12 A I can only assume.

13 Q Okay. What were you wearing?

14 A I was wearing my police uniform. I was wearing
15 my police issue duty hat. And I was wearing a rain cover
16 on the hat and a rain jacket over my uniform.

17 Q Okay. What does the rain cover on your hat look
18 like?

19 A It looks like a black shower cap.

20 Q Okay. Well, that sounds nice. Does it have a
21 badge or any kind of emblem on the outside of the cover?

22 A No.

23 Q All right. And you've got a rain -- what did you
24 call it -- a raingear, rain --

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1 A Raincoat.

2 Q Raincoat. And that's on over your uniform?

3 A Yes.

4 Q What does it look like?

5 A It is a -- at the time it was a long black
6 rubber-type jacket.

7 Q Okay. Did it have an emblem on the outside with
8 some sort of badge?

9 A No.

10 Q Were police officers the only people controlling
11 traffic that day?

12 A I believe there was also firemen controlling
13 traffic in some areas that day.

14 Q Okay. What would they have worn or do you know?

15 A The standard Vienna firemen uniform would have
16 been white shirt, dark blue trousers, I believe.

17 Q Okay. And presumably some kind of rain
18 protection?

19 A Raingear, yes.

20 Q Okay. So he -- you audibly said to him that you
21 needed him to roll down the window?

22 A Yes.

23 Q And he's looking at you while you're saying that?

24 A Yes.

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1 Q What did he do?

2 A He then rolled down the window about two inches.

3 Q Okay. And what did you do?

4 A I began to question him about what was going on.

5 Q Okay. Tell me -- tell me that conversation.

6 A I said, "Sir, what's going on?" He stated that
7 he was pissed off that he was stuck in traffic.

8 Q Okay. And this is while the window is still two
9 inches down?

10 A Yes.

11 Q All right. What did you say in response to him
12 being -- expressing displeasure of being stuck?

13 A I said, "Could I see your license, registration,
14 and proof of insurance, please?"

15 Q Okay. Now, at the time this is happening what --
16 what was going on through your head? When you're walking
17 back toward his car and, you know, he's ignoring you, what
18 kind of a state of mind are you in?

19 A Well, as I'm walking back toward his car, I'm
20 trying to figure out why would someone be honking their
21 horn repeatedly. The first thing that jumped to my mind
22 was someone with a medical emergency.

23 Officer Cole comes back and says the person won't
24 tell him what's going on so that makes me question why are

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1 they honking the horn, you know, why won't they talk to
2 him. Did they have stroke? Are they deaf? Are they mute?
3 What other kind of problem could they have?

4 Q Okay. So when you knock on his window and he
5 ignores you, did you think there was -- did you still think
6 that maybe he's got a problem or, you know, he needs some
7 help?

8 A I wasn't sure, but it began to appear that he had
9 an anger issue.

10 Q Okay. Because you said at one point when you
11 walked back that he had an angry look on his face?

12 A Yes.

13 Q Okay.

14 A But that could be caused by a stroke.

15 Q Fair enough. All right. So you told him you
16 needed his -- all at once you said, "I need your license,
17 proof of insurance, and your registration"?

18 A Yes.

19 Q Through the two-inch crack --

20 A Yes.

21 Q -- in his window?

22 A And asked him to please roll down his window.

23 Q Okay. And what happened then?

24 A Then he asked me why. And I told him that, "I

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1 need your license, registration, and proof of insurance to
2 find out who you are." And, again, he asked me why.

3 I asked him then, you know, "What is your
4 problem?" He was still angry, and expressed anger about
5 the road run keeping him stopped in traffic. And, again,
6 reiterated why did I need to see his license, registration,
7 and insurance.

8 Q Did you ask him what his name was or who he was?

9 A No. I then instructed him to pull over.

10 Q Had he rolled his window down any further at that
11 point?

12 A No.

13 Q Had he given you his license, or his
14 registration, or insurance at that point?

15 A No.

16 Q So you asked him to pull over?

17 A Yes.

18 Q Did you say it just like that?

19 A I said, "I need you to pull over right over
20 there," and instructed the parking lane in front of the
21 church.

22 Q Okay. What was his -- what did he do then?

23 A He put the car in gear and pulled the car over in
24 front of the church.

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1 Q Okay. So he complied?

2 A He did comply.

3 Q And did you walk over to where he had pulled
4 over?

5 A Yes.

6 Q Was his window down, up, or down still two inches
7 -- down further?

8 A It was still down about two inches.

9 Q Okay. What happened then?

10 A Then Mr. Weigle turned and twisted in his seat.
11 He looked -- he looked at me, turned and twisted in his
12 seat as if to turn his back to me and was doing something
13 in the passenger's seat.

14 I was uncomfortable with him turning his back to
15 me, and I moved back away from the window to shift my
16 position when he wasn't looking at me.

17 Q Did you talk to him when you approached or this
18 is all just had happened before you said anything else to
19 him?

20 A This happened before I said anything else to him.

21 Q Okay. So he turns and looks at you, and then
22 twists away from you toward the passenger seat of his car?

23 A Yes.

24 Q And you backed up, did you say?

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**1 A I took a half step toward the back of his
2 vehicle.**

3 Q Okay. So not backing away from his car, but --

4 A Not straight away from it, no.

5 Q -- backing toward the back of his car?

6 A Correct.

7 Q Okay. And then what happened?

**8 A Mr. Weigle then turned around, took his seatbelt
9 off, opened the car door, and stepped out.**

**10 Q Okay. Was the traffic still sitting where it had
11 been?**

12 A Yes.

13 Q Hadn't moved?

14 A I don't recall that it had moved.

15 Q All right. So he gets out of the car?

16 A Yes.

17 Q The what happens?

**18 A He came towards me in an aggressive fashion and
19 took his driver's license and stuck it underneath of my
20 nose.**

21 Q Okay. You were still standing sort of next to --

**22 A At a 45-degree angle away from his driver's side
23 door.**

24 Q Okay. What kind of car was this?

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1 A What is your problem today?

2 Q Okay. And what happens?

3 A He described to me he was upset that he had had
4 to sit in the -- in traffic for such a long time. It was
5 interlaced with profanity, and I had him step back to the
6 rear of his vehicle.

7 Q Okay. What kind of profanity? And, yes, you're
8 allowed to say it in here.

9 A I was just going to make sure. "This is
10 bullshit. Why am I stuck in this fucking traffic?" And
11 words to that affect.

12 Q Okay. Now -- have you ever had someone else
13 during this road race or any other road races express some
14 kind of frustration at the fact that they're sitting in
15 this traffic?

16 A I'm sure.

17 Q To your recollection have you ever pulled anybody
18 else over or stopped anybody else because of their behavior
19 during -- during -- sitting in traffic in a road race?

20 A No.

21 Q Okay. So I think you just said you had him step
22 to the back of his vehicle?

23 A Yes.

24 Q How did you have him step? Explain it. Did you

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1 tell him to --

2 A Yes.

3 Q -- step back?

4 A I directed him to step back to the rear of his

5 car.

6 Q Okay. Did he do that?

7 A He did.

8 Q So was he -- he's standing behind his car?

9 A Yes.

10 Q Is he facing his car; facing away from his car?

11 A He would initially be facing away from his car

12 facing north.

13 Q Okay. Are you standing in front of him at that

14 point?

15 A Yes.

16 Q Okay. Why did you have him step to the back of

17 his car?

18 A To avoid -- if traffic did start to move, it was

19 a much safer position to be -- be in than standing out in

20 traffic.

21 Q Okay. What happens next?

22 A I asked him, you know, "Why are you so upset with

23 the road race?" And, again, he reiterated that, "This is

24 bullshit," you know. The -- "It was taking too long and

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1 for these" -- I believe, his words were -- "for these
2 people to be out here running around in the fucking rain is
3 stupid." And I told him I agreed with him.

4 Q Not a runner then, I take it?

5 A No.

6 Q Okay. So what was your intention at this point?
7 You found out who he was?

8 A Yes.

9 Q You found out what his problem is?

10 A Yes.

11 Q Which is he's not happy. What was your intention
12 in continuing to speak with him?

13 A To disarm him emotionally -- to agree with him.
14 "Hey, this is all bullshit. I don't like standing out in
15 the rain either. This is stupid. Why can't they go run on
16 a track?" And, I think, I said words to the same affect --
17 "somewhere else. Why do they have to run on Grand Central?
18 I don't know. And you're right." This is -- but then I
19 reiterated to him you can't sit here in traffic honking
20 your horn causing a problem.

21 Q Okay. How was him honking his horn causing a
22 problem?

23 A It is a violation of the City of Vienna
24 ordinances for excessive noise.

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1 **Q Okay. But -- but well after the incident?**

2 **A Yes.**

3 **Q Okay. All right. Well, finish telling me about**
4 **your conversation. So you brought him back to the back of**
5 **his car where it's safe to talk and you're trying to, in**
6 **your words, disarm him --**

7 **A Yes.**

8 **Q -- emotionally? Now, he doesn't have a weapon?**

9 **A Not that I'm aware of.**

10 **Q Okay. So tell me -- tell me what else transpired**
11 **while you're standing behind his car.**

12 **A He told me, "This is all bullshit, and I'm**
13 **fucking leaving."**

14 **Q Fucking leaving as in -- was traffic moving at**
15 **that point?**

16 **A I don't recall. My focus was Mr. Weigle.**

17 **Q Okay. And by leaving you thought he meant --**

18 **A He was going to get into his car and go.**

19 **Q Okay. Would that have been a problem?**

20 **A Yes.**

21 **Q Why?**

22 **A In his state of mind --very aggressive, very**
23 **agitated -- I don't know what he would be capable of doing**
24 **if he would take off at that time and drive in the parking**